ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:	)	
	)	
Southeastern Cheese, LLC	)	
92 Washington Street	)	ORDER NO. 08-
Uniontown, Perry County, AL	)	
	)	
SID PERMIT IU 39-53-00113	)	

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter "ADEM Admin. Code r.") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management (hereinafter "the Department") makes the following FINDINGS:

1. Southeastern Cheese, LLC (hereinafter "the Permittee") operates a facility that produces barrel cheddar cheese (hereinafter "the Facility") located in Uniontown, Perry County, Alabama.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.).

4. The Department issued State Indirect Dishcarge (hereinafter "SID") Permit Number IU 39-53-00113 (hereinafter the "Permit") to the Permittee on August 31, 2004,

establishing limits on the discharge of pollutants from a point source, designated therein as Outfall DSN001, from the Facility to the City of Uniontown's Waste Water Treatment Facility (hereinafter the "WWTP"). The WWTP is a "publicly owned treatment works" as defined in ADEM Admin. Code r. 335-6-5-.02(jj). The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports (hereinafter "DMRs") to the Department describing the results of the monitoring. The Permit also requires that the Permittee maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. The DMRs submitted to the Department by the Permittee for the months of March 2008 through June 2009, indicate that the Permittee has discharged pollutants into the WWTPs collection system in violation of the discharge limitations established in the Permit. The months the violations occurred along with the parameters violated are listed in Attachment 1.

6. Pursuant to Ala. Code § 22-22A-5(18)c (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by the Permittee; the economic benefit that delayed compliance may have conferred upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. Any civil penalty assessed pursuant to this authority shall not be less than $100.00 or exceed $25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed $250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: Violations consisted of exceeding Permit limitations for NH3-N, BOD5, Oil and Grease, TP, pH, and TSS.

B. THE STANDARD OF CARE: The Permittee failed to maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if there has been a significant economic benefit conferred.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of any efforts to minimize or mitigate the effects of the violations upon the environment initiated by the Permittee initiated prior to the Department's initiation of this enforcement action.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a history of prior violations similar to those noted above.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

F. OTHER FACTORS: Generally the violations fell into three broad categories of: 1) discharge limitation violations, 2) not monitoring all parameters as required by the Permit, and 3) failure to report DMRs, which have historically received penalty amounts of 1) $100.00 to $10,000.00, 2) $100.00 to $500.00, and 3) $500.00, respectively.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-10, 22-22A-5(12), 22-22A-5(18), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. That, not later than forty-five days from the date of issuance of this Order, the Permittee shall pay to the Department a civil penalty in the amount of $120,000 for the violations cited herein.

B. That all penalties due pursuant to this Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

C. That the Permittee shall prepare and submit to the Department, not later than 180 days after receipt of this Order, an Engineering Report that identifies the potential causes of noncompliance and that summarizes an investigation of the changes necessary for the Permittee to implement to achieve compliance with the Permit. The Engineering Report must include a schedule for implementation (i.e., a Compliance Plan). At a minimum, the Permittee's Engineering Report must address the need for changes in maintenance and operating procedures, the need for modification of existing treatment works, and the need for new or additional treatment works. The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient to accomplish compliance with the Permit, then the Permittee must modify the Engineering Report so that it does accomplish compliance. Modifications to the Engineering Report, if required, shall be submitted to the Department no later than thirty days after receipt of the Department's comments. The Permittee agrees to complete implementation of the recommendations provided in the Engineering Report in accordance with the approved schedule presented in the Compliance Plan and as required by this Order.

D. The Permittee agrees to prepare and submit detailed Quarterly Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan. The Progress Reports should be submitted so that they are received by the Department not later than three months after the date of issuance of this Order and continuing every three months thereafter that the Permittee's performance obligations under this Order remain incomplete. In addition, the Permittee shall submit a written notice of noncompliance with each applicable imposed requirement. The notice of noncompliance shall be submitted so that it is received by the Department no later than fourteen days following each applicable due date contained in the Order. Notices of

noncompliance shall state the cause of noncompliance and the corrective action taken and shall also describe the Permittee's ability to comply with any remaining requirements of this Order.

E. That the Permittee shall comply with the NH3-N, BOD5, O & G, TP, and TSS limitations of the Permit not later than 485 days after issuance of this Order.

F. That this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

G. That final approval and issuance of this Order are subject to the requirement that the Department provide notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the proposed Order.

H. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

I. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

J. That the issuance of this Administrative Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the Permittee for the violations cited herein.

K. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this _____ day of _____, _____.

John P. Hagood
Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

Attachment 1

Month	Parameter	Result	Limit	Unit	Type
Feb-09	pH	4.9	5	s.u.	Daily Minimum
	pH	4.94	5	s.u.	Daily Minimum
	pH	4.93	5	s.u.	Daily Minimum
	pH	4.86	5	s.u.	Daily Minimum
	pH	4.82	5	s.u.	Daily Minimum
	BOD	12700	300	mg/l	Daily Maximum
	BOD	11000	300	mg/l	Daily Maximum
	BOD	11800	300	mg/l	Daily Maximum
	BOD	13500	300	mg/l	Daily Maximum
	BOD	16000	300	mg/l	Daily Maximum
	BOD	13000	200	mg/l	Monthly Average
	O & G	338	150	mg/l	Daily Maximum
	O & G	177	150	mg/l	Daily Maximum
	O & G	1270	150	mg/l	Daily Maximum
	O & G	800	150	mg/l	Daily Maximum
	O & G	609	150	mg/l	Daily Maximum
	O & G	638.8	100	mg/l	Monthly Average
	TSS	2650	300	mg/l	Daily Maximum
	TSS	2370	300	mg/l	Daily Maximum
	TSS	2560	300	mg/l	Daily Maximum
	TSS	1700	300	mg/l	Daily Maximum
	TSS	2570	300	mg/l	Daily Maximum
	TSS	2370	200	mg/l	Monthly Average
	Phosphorus	268	40	mg/l	Daily Maximum
	Phosphorus	135.8	20	mg/l	Monthly Average
	Ammonia	36	30	mg/l	Monthly Average
Mar-09	pH	4.64	5	s.u.	Daily Minimum
	pH	4.84	5	s.u.	Daily Minimum
	pH	4.61	5	s.u.	Daily Minimum
	pH	4.59	5	s.u.	Daily Minimum
	pH	4.66	5	s.u.	Daily Minimum
	pH	4.58	5	s.u.	Daily Minimum
	pH	4.53	5	s.u.	Daily Minimum
	pH	4.55	5	s.u.	Daily Minimum
	pH	4.65	5	s.u.	Daily Minimum
	pH	4.97	5	s.u.	Daily Minimum
	BOD	8700	300	mg/l	Daily Maximum
	BOD	16700	300	mg/l	Daily Maximum

	BOD	18200	300	mg/l	Daily Maximum
	BOD	39900	300	mg/l	Daily Maximum
	BOD	13200	300	mg/l	Daily Maximum
	BOD	16000	300	mg/l	Daily Maximum
	BOD	15000	300	mg/l	Daily Maximum
	BOD	15200	300	mg/l	Daily Maximum
	BOD	25400	300	mg/l	Daily Maximum
	BOD	16600	300	mg/l	Daily Maximum
	BOD	12800	300	mg/l	Daily Maximum
	BOD	17973	200	mg/l	Monthly Average
	O & G	260	150	mg/l	Daily Maximum
	O & G	472	150	mg/l	Daily Maximum
	O & G	377	150	mg/l	Daily Maximum
	O & G	574	150	mg/l	Daily Maximum
	O & G	437	150	mg/l	Daily Maximum
	O & G	425	150	mg/l	Daily Maximum
	O & G	169	150	mg/l	Daily Maximum
	O & G	1020	150	mg/l	Daily Maximum
	O & G	650	150	mg/l	Daily Maximum
	O & G	359.9	100	mg/l	Monthly Average
	TSS	1620	300	mg/l	Daily Maximum
	TSS	1390	300	mg/l	Daily Maximum
	TSS	970	300	mg/l	Daily Maximum
	TSS	1680	300	mg/l	Daily Maximum
	TSS	1970	300	mg/l	Daily Maximum
	TSS	1770	300	mg/l	Daily Maximum
	TSS	1580	300	mg/l	Daily Maximum
	TSS	4460	300	mg/l	Daily Maximum
	TSS	1550	300	mg/l	Daily Maximum
	TSS	2290	300	mg/l	Daily Maximum
	TSS	1200	300	mg/l	Daily Maximum
	TSS	7380	300	mg/l	Daily Maximum
	TSS	4090	300	mg/l	Daily Maximum
	TSS	2458	200	mg/l	Monthly Average
	Phosphorus	71.9	40	mg/l	Daily Maximum
	Phosphorus	62	40	mg/l	Daily Maximum
	Phosphorus	28	20	mg/l	Monthly Average
	Ammonia	234	45	mg/l	Daily Maximum
	Ammonia	173	45	mg/l	Daily Maximum
	Ammonia	359	45	mg/l	Daily Maximum
	Ammonia	290	45	mg/l	Daily Maximum
	Ammonia	218	30	mg/l	Monthly Average

Apr-09	BOD	6720	300	mg/l	Daily Maximum
	BOD	11500	300	mg/l	Daily Maximum
	BOD	9820	300	mg/l	Daily Maximum
	BOD	14200	300	mg/l	Daily Maximum
	BOD	10600	300	mg/l	Daily Maximum
	BOD	11000	300	mg/l	Daily Maximum
	BOD	18400	300	mg/l	Daily Maximum
	BOD	16300	300	mg/l	Daily Maximum
	BOD	10200	300	mg/l	Daily Maximum
	BOD	8100	300	mg/l	Daily Maximum
	BOD	8700	300	mg/l	Daily Maximum
	BOD	9150	300	mg/l	Daily Maximum
	BOD	10600	300	mg/l	Daily Maximum
	BOD	11176	200	mg/l	Monthly Average
	O & G	288	150	mg/l	Daily Maximum
	O & G	901	150	mg/l	Daily Maximum
	O & G	510	150	mg/l	Daily Maximum
	O & G	195.6	100	mg/l	Monthly Average
	TSS	2020	300	mg/l	Daily Maximum
	TSS	940	300	mg/l	Daily Maximum
	TSS	1630	300	mg/l	Daily Maximum
	TSS	1750	300	mg/l	Daily Maximum
	TSS	2260	300	mg/l	Daily Maximum
	TSS	1560	300	mg/l	Daily Maximum
	TSS	450	300	mg/l	Daily Maximum
	TSS	2870	300	mg/l	Daily Maximum
	TSS	1170	300	mg/l	Daily Maximum
	TSS	2600	300	mg/l	Daily Maximum
	TSS	1220	300	mg/l	Daily Maximum
	TSS	2140	300	mg/l	Daily Maximum
	TSS	2780	300	mg/l	Daily Maximum
	TSS	1799	200	mg/l	Monthly Average
	Ammonia	219	45	mg/l	Daily Maximum
	Ammonia	498	45	mg/l	Daily Maximum
	Ammonia	425	45	mg/l	Daily Maximum
	Ammonia	530	45	mg/l	Daily Maximum
	Ammonia	418	30	mg/l	Monthly Average
May-09	BOD	550	300	mg/l	Daily Maximum
	BOD	5370	300	mg/l	Daily Maximum
	BOD	2730	300	mg/l	Daily Maximum
	BOD	1400	300	mg/l	Daily Maximum
	BOD	2080	300	mg/l	Daily Maximum

	BOD	1880	300	mg/l	Daily Maximum
	BOD	3180	300	mg/l	Daily Maximum
	BOD	3520	300	mg/l	Daily Maximum
	BOD	5320	300	mg/l	Daily Maximum
	BOD	2892	200	mg/l	Monthly Average
	O & G	973	150	mg/l	Daily Maximum
	O & G	688	150	mg/l	Daily Maximum
	O & G	450	150	mg/l	Daily Maximum
	O & G	310	150	mg/l	Daily Maximum
	O & G	5840	150	mg/l	Daily Maximum
	O & G	951.6	100	mg/l	Monthly Average
	TSS	1870	300	mg/l	Daily Maximum
	TSS	9010	300	mg/l	Daily Maximum
	TSS	3270	300	mg/l	Daily Maximum
	TSS	673	300	mg/l	Daily Maximum
	TSS	560	300	mg/l	Daily Maximum
	TSS	5290	300	mg/l	Daily Maximum
	TSS	1310	300	mg/l	Daily Maximum
	TSS	2484	200	mg/l	Monthly Average
	Phosphorus	93.5	40	mg/l	Daily Maximum
	Phosphorus	44.2	20	mg/l	Monthly Average
	Ammonia	403	45	mg/l	Daily Maximum
	Ammonia	598	45	mg/l	Daily Maximum
	Ammonia	518	45	mg/l	Daily Maximum
	Ammonia	506	30	mg/l	Monthly Average
Jun-09	BOD	1580	300	mg/l	Daily Maximum
	BOD	1300	300	mg/l	Daily Maximum
	BOD	1750	300	mg/l	Daily Maximum
	BOD	1740	300	mg/l	Daily Maximum
	BOD	1540	300	mg/l	Daily Maximum
	BOD	1582	200	mg/l	Monthly Average
	O & G	490	150	mg/l	Daily Maximum
	O & G	556	150	mg/l	Daily Maximum
	O & G	1080	150	mg/l	Daily Maximum
	O & G	448.1	100	mg/l	Monthly Average
	TSS	3180	300	mg/l	Daily Maximum
	TSS	4180	300	mg/l	Daily Maximum
	TSS	3470	300	mg/l	Daily Maximum
	TSS	6880	300	mg/l	Daily Maximum
	TSS	2810	300	mg/l	Daily Maximum
	TSS	4104	200	mg/l	Monthly Average
	Phosphorus	74.5	40	mg/l	Daily Maximum

	Phosphorus	57	40	mg/l	Daily Maximum
	Phosphorus	55.8	20	mg/l	Monthly Average
	Ammonia	616	45	mg/l	Daily Maximum
	Ammonia	500	45	mg/l	Daily Maximum
	Ammonia	639	45	mg/l	Daily Maximum
	Ammonia	585	30	mg/l	Monthly Average